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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,618	12/18/2000	James M. Barton	TIVO0064	9889

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EXAMINER

MA, JOHNNY

ART UNIT PAPER NUMBER

2623

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/740,618	BARTON, JAMES M.	
	Examiner	Art Unit	
	Johnny Ma	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 14-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 14-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/05, 2/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-4 and 14-29 have been considered but are moot in view of the new ground(s) of rejection.

Applicant reasserts that Gale teaches away from what is claimed in Claim 4 by teaching that an advertisement is physically split into two 15 second spots. This is not what is claimed in Claim 4. Claim 4 cites that a beginning portion and/or end portion is designated in a television advertisement. The examiner respectfully disagrees. It is noted that “designate” is defined as “1: to indicate and set apart for a specific purpose, office, or duty...2 a: to point out the location of” as defined in Merriam-Webster’s Collegiate Dictionary (10th Edition). Also note, MPEP § 2111.01:

If more than one extrinsic definition is consistent with the use of the words in the intrinsic record, the claim terms may be construed to encompass all consistent meanings. Tex. Digital, 308 F.3d at 1203, 64 USPQ2d at 1819. See also < Rexnord Corp. v. Laitram Corp., 274 F.3d 1336, 1342, 60 USPQ2d 1851, 1854 (Fed. Cir. 2001)(explaining the court’s analytical process for determining the meaning of disputed claim terms); Toro Co. v. White Consol. Indus., Inc., 199 F.3d 1295, 1299, 53 USPQ2d 1065, 1067 (Fed. Cir. 1999)(“[W]ords in patent claims are given their ordinary meaning in the usage of the field of the invention, unless the text of the patent makes clear that a word was used with a special meaning.”).

As discussed in the previous rejection, the Gales article discloses a bookend strategy for advertising. The Gale article discloses “[t]he first half [of the advertisement] is followed by a separate, unrelated commercial so that the viewer has to wait for the second half to see what happens to the sufferer (see Excedrin Commercial Spot.” Thus the Gale article discloses taking a single advertisement and splitting the advertisement into two portions,

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as discussed in the previous Office Action. Such splitting of the single advertisement “designates” a beginning and end portion of the advertisement in that the splitting indicates and sets apart the advertisement portions for a specific purpose. Thus the examiner respectfully submits that in regard to applicant’s argument that the references fail to show certain features of applicant’s invention, it is noted that the features upon which applicant relies (i.e., pointing out the locations of the beginning and end portion of an advertisement without splitting the advertisement) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant further argues that “Gales additionally does not teach or disclose a system wherein said beginning portion contains more important content designed to get a desired message across to a viewer in the predetermined length of time as claimed in Claim 4. Gales does not contemplate such a feature since Gales teaches that an advertisement is split into two 15 second spots” (Remarks, pg. 8). The examiner respectfully disagrees, the relevant claim limitation recites “wherein said beginning portion contains more important content designed to get a desired message across to a viewer in the predetermined length of time.” The Gales Article discloses that the beginning portion (the first 15 second segment) sets up the context of the commercial message and the end portion (the last 15 second segment) provides the solution or the benefit of the advertised product. The beginning portion is thus important content designed to get the message across to a viewer in that the beginning portion sets up the stage for the message that the advertiser is attempting to

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convey to that user, such as Excedrin alleviates headaches or Banquet Microwave Hot Bites can be quickly prepared when you are hungry (see the Gales Article).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gales Article: "Creatives find 'Bookends' a Solution to Viewer Apathy (of record) in further view of Automotive News: Audi Ads focus on technology (of record) and Geer et al. (US 6,788,882 B1 of record).

As to claim 1, note the Gales article that discloses creatives find 'bookends' a solution to viewer apathy. The claimed "designating a [...] commercial break in a program segment" is met by "[a]n example of bookend commercials is this Excedrin spot by DDB Needham/New York, left and right, in which the actor appears in the first 15-second pod stricken by a headache" "and then the product's benefit is shown in the second 15 seconds to signify it as being the solution to the actor's headache" (see Excedrin Commercial Spot"). The claimed "wherein said beginning portion is of a particular length of time" is met by the partitioning of the commercial into 15 second spots (see Excedrin Commercial Spot). The claimed "wherein said beginning portion is authored to provide a teaser to entice a viewer to watch commercials during the commercial break" is met by "[t]he first half is followed by a separate, unrelated commercial so that the viewer has to wait for the second half to see what happens to the

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sufferer” (see Excedrin Commercial Spot). However the Gales article is silent as to designating a beginning of the commercial spot. Now note the Audi article that discloses “‘bookends’ at the beginning and end of commercial breaks” (see Audi, paragraph 2). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Gales bookending with the Audi bookend at the beginning and end of a commercial break for the purpose of encouraging users to watch the entire commercial break in order to view the conclusion of the first 15 second segment. Further note the Gales and Audi combination provides a general teaching of displaying commercials to users. However, the Gales and Audi combination is silent as to the presentation of these commercials to users during live or prerecorded presentations. Now note the Geer et al. reference that discloses a DVR for recording programming (Geer 2:6-16) wherein users may cause the DVR skip through a commercial break (Geer 9:45-10:41). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Gales and Audi combination teaching providing a teaser to entice a viewer commercials during a commercial break with the Geer DVR and commercial skipping for the purpose of extending the enticement to users viewing recorded programming. The claimed “before the viewer causes the DVR to skip through the commercial break” is met by the Geer, Audi, and Geer et al. combination as discussed above.

As to claim 2, the claimed “wherein said teaser is a set of images or a logo that indicate a commercial relating to a particular advertiser is present” is met by that discussed in the rejection of claim 1 wherein the video advertisements inherently comprise a set of images.

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As to claim 19, note the Gales article that discloses creatives find ‘bookends’ a solution to viewer apathy. The claimed “receiving a commercial advertisement, the commercial advertisement is authored to provide a teaser in a first beginning portion of the commercial advertisement to entice a viewer to watch commercials during a commercial break” is met by ” is met by “[a] n example of bookend commercials is this Excedrin spot by DDB Needham/New York, left and right, in which the actor appears in the first 15-second pod stricken by a headache” “and then the product’s benefit is shown in the second 15 seconds to signify it as being the solution to the actor’s headache” (see Excedrin Commercial Spot”) and “[t]he first half is followed by a separate, unrelated commercial so that the viewer has to wait for the second half to see what happens to the sufferer” (see Excedrin Commercial Spot). However, the Gale Article does not specifically disclose the claimed “inserting the commercial advertisement as the first commercial is a commercial break in a program segment.” Now note the Audi article that discloses “‘bookends’ at the beginning and end of commercial breaks” (see Audi, paragraph 2). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Gales bookending with the Audi bookend at the beginning and end of a commercial break for the purpose of encouraging users to watch the entire commercial break in order to view the conclusion of the first 15 second segment. Further note the Gales and Audi combination provides a general teaching of displaying commercials to users. However, the Gales and Audi combination is silent as to the presentation of these commercials to users during live or prerecorded presentations. Now note the Geer et al. reference that discloses a DVR for recording programming (Geer 2:6-16) wherein users may cause the

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DVR skip through a commercial break (Geer 9:45-10:41). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Gales and Audi combination teaching providing a teaser to entice a viewer commercials during a commercial break with the Geer DVR and commercial skipping for the purpose of extending the enticement to users viewing recorded programming. The claimed “before the viewer causes the DVR to skip through the commercial break” is met by the Geer, Audi, and Geer et al. combination as discussed above.

As to claim 20, the claimed “wherein the first beginning portion is of a particular length of time” is met by the partitioning of the commercial into 15 second spots (see Excedrin Commercial Spot).

As to claim 21, the claimed “charging an advertiser a particular fee for placing the commercial advertisement as the first commercial in the commercial break in the program segment.” Note the Gales Article discloses providing advertisements. However, the Gales article is silent as to the fee structure used to charge advertisers, the claimed “wherein an advertiser is charged a particular fee by the content provider for placing the television advertisement at a beginning of a commercial break.” Nevertheless, the examiner gives Official Notice that it is notoriously well known in the art to charge advertisers particular fees in relation to the duration and position of an advertisement in a commercial break for the purpose allowing a content provider the ability to generate revenue for television broadcasts. Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Gales advertising accordingly for the above stated advantages.

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As to claim 22, the claimed “wherein the teaser is a set of images or a logo that indicate a commercial relating to a particular advertiser is present” is met by that discussed in the rejection of claim 1 wherein the video advertisements inherently comprise a set of images.

4. Claims 3, 14-15, 18, and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gales Article: “Creatives find ‘Bookends’ a Solution to Viewer Apathy (of record) in further view of Automotive News: Audi Ads focus on technology (of record), Geer et al. (US 6,788,882 B1 of record), and Balakrishnan et al. (US 2001/0052135 A1 of record).

As to claim 3, the claimed “wherein said teaser is a short sequence of animations designed to catch the viewer’s attention and persuade him to watch the commercial break.” Note the Gales Article discloses the use of bookended advertisement teasers to encourage users to watch a commercial break (see Excedrin Commercial Spot). The Gales Article also discloses “[t]he [bookend] strategy is probably based on sound principles,” said Betsy Frank, senior vp/associate director of media research for Saatchi & Saatchi Advertising, ‘that the more you can involve viewers in an interactive way with commercials, it gets them interested enough to stay with what is being presented longer’” (Gales, see para. 3). However, the Gales Article does not specifically disclose “wherein said teaser is a short sequence of animations.” Now note the Balakrishnan et al. reference that discloses a method and system for implementing interactive broadcast programs and commercials. The claimed “wherein said teaser is a short sequence of animations” is met by “at the time of a commercial break in the main program being broadcast over the broadcast channel which is currently selected by the viewer, a choice (or menu) or

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different commercials which are available to the viewer will be displayed. For example, several different logos or video sequences [sequence of animations] can be displayed on different portions or spatial locations of the display area of the television screen. The logos or video sequences are representative or indicative of the different products and/or services and/or companies corresponding to the different commercials which are available for display” (Balakrishnan [0018]) wherein the user is allowed to select advertising for viewing from the menu (Balakrishnan [0020]) and to skip forward past the menu (Balakrishnan [0020]). Therefore, the examiner submits that it would have been further obvious to one of ordinary skill in the art at the time the invention was made to modify the Gales bookending and the Audi bookend at the beginning and end of a commercial break combination with the Balakrishnan et al. menu for the purpose of further attracting a user’s interest in viewing advertising by providing a viewer the interactivity of selecting an advertisement of interest for viewing and thus “involve viewers in an interactive way with commercials, [getting] them interested enough to stay with what is being presented longer” (Gales, see para. 3).

As to claim 14, please see rejection of claim 3.

As to claim 15, the claimed “wherein the DVR pauses playing the program segment after displaying the teaser” is met by the Gale, Audi, Geer et al., and Balakrishnan et al. combination as discussed above.

As to claim 18, please see rejection of claim 3.

As to claim 23, the claimed “wherein the teaser is a short sequence of animations.” Note the Gales Article discloses the use of bookended advertisement teasers to encourage users to watch a commercial break (see Excedrin Commercial Spot).

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The Gales Article also discloses “[t]he [bookend] strategy is probably based on sound principles,” said Betsy Frank, senior vp/associate director of media research for Saatchi & Saatchi Advertising, “that the more you can involve viewers in an interactive way with commercials, it gets them interested enough to stay with what is being presented longer” (Gales; see para. 3). However, the Gales Article does not specifically disclose “wherein said teaser is a short sequence of animations.” Now note the Balakrishnan et al. reference that discloses a method and system for implementing interactive broadcast programs and commercials. The claimed “wherein the teaser is a short sequence of animations” is met by “at the time of a commercial break in the main program being broadcast over the broadcast channel which is currently selected by the viewer, a choice (or menu) or different commercials which are available to the viewer will be displayed. For example, several different logos or video sequences [sequence of animations] can be displayed on different portions or spatial locations of the display area of the television screen. The logos or video sequences are representative or indicative of the different products and/or services and/or companies corresponding to the different commercials which are available for display” (Balakrishnan [0018]) wherein the user is allowed to select advertising for viewing from the menu (Balakrishnan [0020]) and to skip forward past the menu (Balakrishnan [0020]). Therefore, the examiner submits that it would have been further obvious to one of ordinary skill in the art at the time the invention was made to modify the Gales bookending and the Audi bookend at the beginning and end of a commercial break combination with the Balakrishnan et al. menu for the purpose of further attracting a user’s interest in viewing advertising by providing a viewer the interactivity of selecting an advertisement of interest for viewing and thus “involve

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viewers in an interactive way with commercials, [getting] them interested enough to stay with what is being presented longer” (Gales, see para. 3).

As to claim 24 the claimed “wherein the teaser is a tag that triggers the DVR to display a menu.” Note the Gales Article and Geer et al. combination discloses the use of bookended advertisement teasers to encourage users to watch a commercial break (see Excedrin Commercial Spot). The Gales Article also discloses “[t]he [bookend] strategy is probably based on sound principles,” said Betsy Frank, senior vp/associate director of media research for Saatchi & Saatchi Advertising, ‘that the more you can involve viewers in an interactive way with commercials, it gets them interested enough to stay with what is being presented longer’” (Gales, see para. 3). However, the Gales Article and Geer et al. combination does not specifically disclose “wherein said teaser is a menu or short sequence of animations.” Now note the Balakrishnan et al. reference that discloses a method and system for implementing interactive broadcast programs and commercials. The claimed “wherein the teaser is a tag that triggers the DVR to display a menu” is met by “at the time of a commercial break in the main program being broadcast over the broadcast channel which is currently selected by the viewer, a choice (or menu) or different commercials which are available to the viewer will be displayed. For example, several different logos or video sequences can be displayed on different portions or spatial locations of the display area of the television screen. The logos or video sequences are representative or indicative of the different products and/or services and/or companies corresponding to the different commercials which are available for display” (Balakrishnan [0018]) wherein the user is allowed to select advertising for viewing from the menu (Balakrishnan [0020]) and to skip forward past the menu (Balakrishnan

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[0020]). Therefore, the examiner submits that it would have been further obvious to one of ordinary skill in the art at the time the invention was made to modify the Gales bookending and the Audi bookend at the beginning and end of a commercial break combination with the Balakrishnan et al. menu for the purpose of further attracting a user's interest in viewing advertising by providing a viewer the interactivity of selecting an advertisement of interest for viewing and thus "involve viewers in an interactive way with commercials, [getting] them interested enough to stay with what is being presented longer" (Gales, see para. 3).

As to claim 25, please see rejection of claim 24.

As to claims 26 and 27, the claimed "wherein the DVR pauses playing the program segment after displaying the teaser" is met by the Gale, Audi, Geer et al., and Balakrishnan et al. combination as discussed above.

As to claim 28, the claimed "wherein the viewer can watch the commercial advertisement or skip to a next commercial advertisement" is met by the Gale, Audi, Geer et al., and Balakrishnan et al. combination as discussed above wherein "[w]hen viewing recorded video, either where the actual broadcast has already completed or the program is still in progress, the user may wish to skip individual commercials" (Geer 9:62-65).

5. Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gales Article: "Creatives find 'Bookends' a Solution to Viewer Apathy (of record).

As to claim 4, note the Gales article that discloses creatives find 'bookends' a solution to viewer apathy. The claimed "designating a beginning portion of a television advertisement; wherein said beginning portion is of a particular length of time" is met by

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the bookending comprising splitting of an advertisement into two 15 second spots (see Excedrin Commercial Spot). The claimed “wherein said beginning portion contains more important content designed to get a desired message across to the viewer in the predetermined length of time” is met by wherein the beginning portion of the advertisement conveys a actor with a headache and the end portion signifying the advertised product as the solution to the actor’s headache (see Excedrin Commercial Spot). However, the Gales article is silent as to the fee structure used to charge advertisers, the claimed “wherein an advertiser is charged a particular fee by the content provider for placing the television advertisement at a beginning of a commercial break.” Nevertheless, the examiner gives Official Notice that it is notoriously well known in the art to charge advertisers particular fees in relation to the duration and position of an advertisement in a commercial break for the purpose allowing a content provider the ability to generate revenue for television broadcasts. Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Gales advertising accordingly for the above stated advantages.

As to claim 17, note the Gales article that discloses creatives find ‘bookends’ a solution to viewer apathy. The claimed “designating an end portion of a television advertisement; “wherein each portion is of a particular length of time” is met by the bookending comprising splitting of an advertisement into two 15 second spots (see Excedrin Commercial Spot). The claimed “wherein said end portion contain more important content designed to get a desired message across to the viewer in the particular length of time” is met by wherein the beginning portion of the advertisement conveys a actor with a headache and the end portion signifying the advertised product as the

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solution to the actor's headache (see Excedrin Commercial Spot). However, the Gales article is silent as to the fee structure used to charge advertisers, the claimed "wherein an advertiser is charged a particular fee by the content provider for placing the television advertisement at the end of a commercial break." Nevertheless, the examiner gives Official Notice that it is notoriously well known in the art to charge advertisers particular fees in relation to the duration and position of an advertisement in a commercial break for the purpose allowing a content provider the ability to generate revenue for television broadcasts. Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Gales advertising accordingly for the above stated advantages.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Balakrishnan et al. (US 2001/0052135 A1 of record) in further view of Geer et al. (US 6,788,882 B1 of record).

As to claim 16, note the Balakrishnan et al. reference that discloses a method and system for implementing interactive broadcast programs and commercials. The claimed "designating a beginning portion of a commercial break in a program segment" is met by "at the time of a commercial break in the main program being broadcast over the broadcast channel which is currently selected by the viewer, a choice (or menu) of different commercials which are available to the viewer will be displayed. For example, several different logos or video sequences can be displayed on different portions or spatial locations of the display area of the television screen. The logos or video sequences are representative or indicative of the different products and/or services and/or companies corresponding to the different commercials which are available for display"

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(Balakrishnan [0018]). The claimed “wherein the beginning portion is of a particular length of time” is met by the menu being displayed for a default (predetermined) period of time (e.g. 15-30 seconds) (Balakrishnan [0020]). The claimed “wherein said beginning portion is authored to [...] display a menu to a viewer” is met by “at the time of a commercial break in the main program being broadcast over the broadcast channel which is currently selected by the viewer, a choice (or menu) of different commercials which are available to the viewer will be displayed” (Balakrishnan [0018]). The claimed “pauses after displaying the menu” is met by the menu may be displayed for a predetermined default period of time (a pause) (Balakrishnan [0020]). The claimed “wherein the viewer is allowed to skip past the menu” is met by “[t]he application program could be written to force the display of a default commercial in the event the viewer does not select any commercial within a predetermined default period of time (Balakrishnan [0020]), thus a user who waits until the predetermined default period of time has elapsed is allowed to skip forward past the menu. The claimed wherein the viewer is allowed to “select a particular item via the menu” is met by “[t]he viewer can suitably use a remote control unit (RCU) or other user control device (e.g., programmable keypad) to select the commercial he/she desires to view” (Balakrishnan [0020]).

However, the Balakrishnan et al. reference is silent as to the use of a DVR. Now note the Geer et al. reference that discloses systems and methods for storing a plurality of video stream on re-writable random-access media and time-and channel- based retrieval thereof. The claimed “DVR” is met by “[t]he digital video recorder of the present invention remedies the short comings of traditional video recording methods. The DVR does this by combining an essentially limitless (only limited by the cost of the equipment)

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capability concurrently to record a number of channels on a random-access medium while being able concurrently to play back any of these channels for viewing” (Geer 2:6-16). Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Balakrishnan pausing after displaying the menu with the Greer et al. DVR for the purpose of providing a viewing environment that offers increased flexibility to a user in viewing programs aired over multiple channels (Geer 1:47-60). Note that the claimed “causes a DVR to display a menu to a viewer;” “wherein the DVR pauses playback of the program segment after displaying the menu” is met by the Balakrishnan et al. and Geer et al. combination as discussed above wherein when the user skips past the menu the viewer is allowed to “continue viewing the program segment, thereby causing the DVR to unpause the playback of the program segment.

7. Claims 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gales Article: “Creatives find ‘Bookends’ a Solution to Viewer Apathy (of record) in further view of Automotive News: Audi Ads focus on technology (of record), Geer et al. (US 6,788,882 B1 of record), Balakrishnan et al. (US 2001/0052135 A1 of record), and Dimitrova et al. (US 6,100,941 of record).

As to claim 29, note the Gale, Audi, Geer et al., and Balakrishnan et al. combination as discussed above teaches presenting teasers at the beginning of a commercial break. However, the Gale, Audi, Geer et al., and Balakrishnan et al. combination does not specifically disclose “wherein the next commercial advertisement presents a second teaser to the viewer and wherein the DVR pauses playing the program segment after displaying the second teaser.” Now note the Dimitrova et al. reference that

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discloses an apparatus and method for locating a commercial disposed within a video data stream wherein "a user could be shown the first frame of a commercial and be prompted as to whether he wishes to skip that commercial" (Dimitrova 19:54-60).

Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Gale, Audi, Geer et al., and Balakrishnan et al. combination teasers with the Dimitrova teasers/pause for each commercial in a commercial break for the purpose of extending the enticement of commercial viewing throughout the commercial break and thus increasing the likelihood of viewer ship by the users.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnny Ma whose telephone number is (571) 272-7351. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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jm


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